

EAST TENNESSEE NATURAL GAS	)	
CO.,	)	Case No. 4:02-CV-00146
	)	
Plaintiff,	)	
	)	<b><u>MEMORANDUM OPINION</u></b>
v.	)	
	)	
3.04 ACRES IN PATRICK COUNTY,	)	By: Jackson L. Kiser
JERRY S. THOMAS, et al.,	)	Senior United States District Judge
	)	
Defendants.	)	

## I. PROCEDURAL HISTORY

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*Defendants' Motion*. Oral argument on the Defendants' *Motion* would not be helpful. The Defendants' *Motion* is now ripe for judgment.

## **II. DISCUSSION**

In their *Memorandum in Support*, the Defendants do not provide legal or factual grounds on which this Court should reconsider its *Order* that granted the Plaintiff's *Motion for a New Trial*. Furthermore, the Defendants do not raise new issues in their *Memorandum in Support*. The *Motion for Reconsideration* is not intended to be used by a party to merely re-argue a *Motion* on which the Court has already ruled.

The Defendants do cite 28 U.S.C. §1292(b) in requesting that this Court designate its *Order* as immediately appealable. This section of the *United States Code* allows the Court to declare an order immediately appealable under limited circumstances:

When a district judge, in making in a civil action and order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. . . 28 U.S.C. §1292(b).

In their *Memorandum in Support*, the Defendants do not raise a controlling issue of law for which there is substantial ground for a difference of opinion. Instead, the Defendants merely reargue the evidence they presented at trial in this case. In my opinion, the Defendants' appeal would be futile and would only delay this case.

## **III. CONCLUSION**

For the reasons stated herein, I will deny the *Defendants' Motion for Reconsideration*, or in the Alternative, *Motion to Designate Order as Immediately Appealable*.

The clerk is directed to send a copy of this *Memorandum Opinion* and the

accompanying *Order* to all counsel of record.

Entered this 9<sup>th</sup> day of March, 2006.

s/Jackson L. Kiser

Senior United States District Judge